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THE CITY CHARTER

GEORGE McANENY

President of the Board of Aldermen

I ASSUME that in the earlier numbers of this course the detail of the present city government has been pretty thoroughly covered. You have been told about the operation of various departments and their correlation, and about the organization of the city's finances. You are still to hear from the mayor upon the development of the port and terminal facilities of the city. What I have to say, therefore, about the charter, fundamental though the subject be, will touch but lightly upon these questions of detail. I wish, rather, to impress you with the fact that we have indeed reached the opportune time at which a new and up-to-date instrument of government for the whole city may be framed and put into effect. We have had ill luck in the past in bringing anything like this about. When the various municipalities were consolidated into Greater New York in 1897, the charter then drawn did little more than put together the old fragments of law that belonged to one city or another, making them as nearly applicable to the whole as possible. The commission to which Dr. Butler was called corrected those mistakes that were developed during the earlier years of actual administration under the Greater New York charter, and in 1900 the revision under which we are now working was given to us by the legislature. There have been several attempts since to draw a charter that would not merely put together the old things by scissor and gum-pot work, but would draw a new and broad body of law to serve, as it ought to serve, as a constitution for the government of our six millions of people, giving incidentally to the city that larger measure of control of its own affairs that it ought to have, simplifying its working machinery and working out various improvements of detail that experience has suggested.

In 1907, I think, Governor Hughes appointed a commission upon which I had the honor to serve, a commission of fifteen men, and we prepared what seemed to us an excellent plan. We sent

it to Albany, and there it died. Then came two successive commissions appointed by the legislature and not by the governor, and made up in part of gentlemen from up-state, in part of our own citizens. Both charters framed in this manner failed in turn.

We have a new commission now. I am the lineal successor of Dr. Butler in what he would have been in serving as chairman of that commission; but this time the initiative has been taken by the city. We have brought together a body of our own officers, eight of them, and propose to associate with ourselves seven citizens, who are about to be appointed, to frame a charter offered by the city to its own people, made up here and not through the indirection of action at Albany if we can avoid that. We have deliberately held back the real beginning of our drafting until the constitutional convention should begin its work, so that we may work side by side with its members through the summer, gathering as we go along a notion of what they propose to do, of how much power they propose to give us or to permit the people to give us, and shaping our plans accordingly.

In the convention, there will be no other question so lively, so important, perhaps even so exciting, as this one. The question of home rule for cities has never been in a livelier state and there never has been a time at which we might more reasonably hope for concessions from the state that would be of great and lasting importance to us. It is not merely the case of New York city that is presented, but that of every city in the state, for we are still governed far too much from Albany.

When the constitution of twenty years ago was framed, or before that time, conditions indeed were considerably worse. We ran to Albany for authority to spend fifty thousand dollars upon a Brooklyn turnpike, for instance. We ran to Albany to change the provisions of law with relation to the fixing of salaries for almost every grade and description of city employes. We were in turn governed from Albany, without request, in many matters that bothered us a good deal. But the convention of that year appointed a select committee on home rule for cities. That committee procured the passage of important amendments. In consequence, municipal elections are now held at a separate time from the elections for state and national officials. The mayor of

the city was also given power to veto a bill affecting the city, and even though his veto may be overridden by the same vote that passed the original bill in the legislature, the moral effect of such an objection has, of course, been real and serviceable. In various other respects the home-rule powers of the cities were increased, and as the legislature was put under greater curb as to the manner of doing its own work, providing more opportunity for examination of bills, and requiring printing in advance of consideration, the city has had a much better chance to protect itself than it had before. But there is still far too much interference.

New York city is, of course, in a class absolutely by itself. In its population and in its wealth it is not merely a city; in its relation to the rest of the country, it is really a great commonwealth, ranking in number of people third, I think, with only Pennsylvania and Illinois ahead of it; in wealth far passing any of them. Our problems are peculiar to a city of this sort. We share but few problems with the smaller cities of the state. We are clearly entitled to an unusual degree of home rule. It seems absurd that in affairs affecting so great an aggregation of people, affecting the annual spending of so many millions of dollars, decisions should be made by a legislature sitting a hundred and fifty miles away in which, moreover, we have actually a minority representation. We have 55% of the people of the state; we have about 42% of the representation in the legislature. That convention of twenty years ago deliberately provided that at no time should our representation go beyond one half. Therefore, as I say, those who live outside the city, who must at best understand our affairs far less clearly than we do ourselves, are given the power of decision in matters that affect the spending of millions of dollars annually from the city treasury and the detailed regulation of the day to day conduct of our people. Our government, as it stands, is quite capable of taking over a larger measure of local self-control. As it would be improved under a new charter, it will be even more capable of doing this thing.

Before I get into the question of what I think we ought to have, may I sketch very briefly the present system? Being peculiar as a

city, we have to-day a peculiar form of government. Perhaps it approaches more nearly the commission form, which we have lately talked about so much in this country, than anything that came before these recent expressions of commission government.

While the mayor, the comptroller and the presidents of the five boroughs have each their separate administrative functions and while I preside over the board of aldermen, yet when we come together in the board of estimate, we are really a business legislature, a business directorate of the affairs of the city, and it is there that all matters of larger concern are settled to-day. We get over the little difficulty of the proportion of geographical representation by giving to the mayor, the comptroller and the president of the board of aldermen three votes each; the presidents of Brooklyn and Manhattan, two votes each; and those of the three smaller boroughs, one vote each. Under that plan you have eight men casting sixteen votes, but you have three who cast the majority, and if it is necessary that they should act together in any matter that concerns the city as a whole, they can do it. The plan has worked exceedingly well. I have been in the board five years, four years as president of Manhattan and a year or more as president of the board of aldermen, and I do not recall a single instance within that time where there has been a division in the board based upon geographical considerations, nor a single instance of difference based upon lines of political opinion. There are various combinations of votes that may be framed according to the individual judgment of those who cast them, but as a rule we are practically unanimous, and our work through committees, of course, tends to increase that pleasant agreement. The board of estimate and apportionment makes the budget, controls the spending of each department during the year, decides not only how much each shall have in the aggregate, but how much each shall have for each one of its functions, and how much shall be paid to each officer or employe, within limits. The board controls the use of the city's credit, the issue of our bonds and the raising of funds for great permanent public improvements. It grants franchises, whether they be for a great system of rapid transit railways involving three hundred millions of dollars or for the right to string a wire across a street.

The board has control of the city map, that is, the laying out of streets, of boulevards, of parks, and other public places; the development of the city plan; the control of the waterfront—all of these functions that belong to the larger business side of the city. In this board there is no veto. The mayor sits as chairman, but he casts only three votes, and the action of the board is final. There is no veto that corresponds to the veto of an executive over the ordinary legislative body. The board of aldermen has a concurrent power in some of these matters. It must approve the city budget, it must approve certain issues of our corporate stock or bonds and approve the fixing of salaries of our officers and employes; but it has very little independent power in financial matters, and in no case may it raise the amount of an appropriation. It may cut out or it may reduce, but it may not increase, and perhaps for that reason the occasions of its intervention have not been very frequent. Chiefly, the power over all these things lies in the board of estimate.

Of course, the mayor is the head of the great departments. He appoints the commissioners. He also appoints members of the board of education, who, however, after that are released from his control and act practically as a separate corporate body. The comptroller appoints the heads of the great bureaus of finance, and has very large powers of auditing and of checking our expenditures. The presidents of the boroughs each have their local borough offices. Roughly speaking, they control the public works that are local, the streets, the sewers, and the erection of private buildings. But all these people, coming together in the board of estimate, with the experience gained in each of these administrative fields, act as a commission. It is, in fact, a commission form of government to that degree.

While we spend two hundred millions of dollars a year through the action of this board, and while we are now spending in our annual budget upon an average perhaps twenty or twenty-five millions more upon bond issues for capital improvement through the action of this board, we still find that it is pretty difficult to beat down the bills, even from these huge sums. We find that that is true chiefly because Albany still controls a large measure of our action. Many of the salaries of officers and

employees are fixed by law. These cannot be touched by the board of estimate and apportionment. I presume that if we had independent power (and we have asked for it and failed to get it), it might make a difference of eight or ten millions a year in our budget, through an adjustment of salaries that probably would be accepted by the town as perfectly fair and still far in excess of rates paid in private life; but the legislature has said that the people of the city of New York shall give John Jones so much money, and that settles it. We have simply to audit the bill in such cases. The legislature has also given us mandatory pension laws and mandatory laws of many another description that compel at least the spending of money even though they do not fix individual salaries. Within our two hundred millions, there is less than a third that is in any measure subject to our discretion. Nearly a third of it goes for our debt service, for the payment of instalments on the debt and for interest and sinking-fund charges. Another large block is made of items such as I have told you. Only within the departmental service itself, that is, the departments controlled by the mayor and borough presidents and comptroller, is there much chance for discretion. We are spending seventy-one millions of our two hundred upon those departments this year, and that represents two millions less than was spent upon the corresponding work a year ago. In other words, we have been beating it down, but we have to come to a full stop when we reach the line of mandatory legislation or when we are presented with the bills of the state, or the payment of direct taxes for the support of the government of the state. These things must be added to our budget and they are not within our power to change. We expect during the present year to get about another million out of that seventy-one; possibly we can decrease it two millions, but we do that by the smaller economies. There is not much room left for pruning. If we had, however, a charter that saved the waste of efficiency and of administrative force that our present scattered system involves, we certainly could go millions farther down. I have led up to this rather tediously perhaps, but I have gone into it in such detail for the reason that the cost of government is usually the vital thing, the nearest thing to our thought. We think of its efficiency, too, but everybody wants

the cost of government kept down; not necessarily to spend less, but either to cut down the bills or to get more service for the money that is spent. Therefore, we ought to have an up-to-date system of administrative machinery.

But beneath our commission form of government, what do we find? Washington has nine or ten compact administrative departments, their heads sitting in the cabinet of the President. New York city has twenty-seven (I think that is about the figure; it varies now and then). We have departments and we have commissions and we have boards. We have overlapping authorities. In other words, the use of the executive power is sadly scattered. In my judgment, that should be the first point in the correction of what is wrong. The overlapping of power has been well instanced in the agitation now proceeding to bring together those departments that have to do with building inspection. There are four or five of them at present charged with such power—the building bureau itself, which is a borough department, the tenement house department, the bureau of fire prevention, the factory department of the state, the health department and the department of water supply, all of them with their various inquiries and their various rules to enforce, sending their inspectors to one building if that building be a factory or an apartment house. There have even been instances recently where one department gave orders that directly contravened those given by another. That, of course, means waste of money, and it taxes the patience of the people investigated. The only way to correct it is through charter reform. When an attempt was made to put through a special bill this year to do the thing in advance of general charter reform, there was so much disagreement between the advocates of centralized government and the advocates of the old borough form that the bill has practically fallen; because although it was passed by the legislature and is now in the hands of the mayor, that official has given a pretty clear intimation, wisely in my judgment, that he proposes to veto it, and therefore we must wait for another year and the broader chance of general charter revision.

Next, we must give more power to our own local municipal legislature. When we talk of home rule, we are apt to be a little

vague as to just how we are going to get it. The only way to get it is actually to take away from the legislature at Albany certain powers that they now exercise and put them somewhere down here. The suggestion has been made that we need no board of aldermen, that the board of estimate might serve this purpose and enact our local laws. I had more or less of skepticism about the board of aldermen before I went into its chair, but I have been convinced as a result of my year and a half of experience that a great deal of good may come of it. We have actually proved that by getting a great deal of good out of it. The board got together early in its present term and decided to give up voluntarily a lot of the petty things upon which it had frittered away its time in the past, to amend its rules so that there should be prompt and clear action upon everything coming before it, and then to devote itself to a real program of constructive legislation. We found that the ordinances of the city, which have the force of law, of course, being identical in that respect with the statutes of the state, had not been codified or revised in eight years, although the law requires it to be done each year. We have just prepared and completed a revision. We found that the building code had lain longer still without attention, although constant effort had been made to make it right, and something like three hundred thousand dollars futilely spent upon it. We are just completing a new building code, getting it enacted section by section, and instead of the two or three or four trifling bits of legislation that were passed in any given year in the old days, we have turned out in one year between forty and fifty really constructive ordinances. The board likes its new work, it is doing it well, and I understand that nominations for the board of aldermen are apt to be estimated much more highly in the future than they have been in the past.

But, as to the new plan—I don't care whether it is called a board of aldermen or a municipal assembly or what it may be called,—there should be a city legislature, whose general law-making powers should be greatly increased. I would take away from the aldermen their concurrent action in the financial acts of the board of estimate except in the approval of the annual budget. In all other financial particulars, the decision should remain with

the business board; but, on the other hand, I would give the board of aldermen greatly increased power along the general lines that are now exercised at Albany.

When we go to the constitutional convention asking relief, we expect, of course, to receive merely general grants of new power. We do not expect the convention to draw our charter or to give a great deal of attention to the work that we are doing upon the draft of the charter, but we want general powers under which we may properly work, and I presume that the line of demarkation is likely to run somewhat like this: that there should be left to the state legislature control over all those things that belong to the general law of the state and are of equal application to any city within its borders, the use of the police power in all its subdivisions, the control of elections, and of the principles of appointment in the civil service—powers of that description; but that everything relating to the corporate business of a city and everything relating to the control of its petty affairs should be left absolutely to the city itself. There must be—I trust there will be—a line drawn in the constitution actually forbidding the interference of the state legislature in matters of the second class. If we have such powers and then a larger measure of decision by the people in the adoption of the new charter, we can ourselves build up a new system of city government that will take advantage of all the advance that has been made anywhere by cities abroad or in America, and place New York in the proud position that it ought to hold.

I presume that just as soon as there is a clear intimation of what the constitutional convention will do, we shall be able to go straight ahead with the completion of our work, but it is our purpose to go slowly, to take advice from every one within the city who is willing and competent to give it, and not to present our new charter to the next legislature, but to take another year for it, asking action at the legislative session of 1917. The logical time to place in effect a new general charter would, of course, be the date of the beginning of a new city administration. The four years of the present administration will end with the end of 1917. If a charter is prepared with all this care, made one of the principal issues, perhaps, of the legislature of 1917, and put in

effect with 1918, that, in my judgment, would be the proper method.

But, the convention may go even farther in its grant of home rule and give the city the right to initiate the adoption of its own charter, possibly by popular vote, possibly by a popular vote coupled with the approval of the legislature, giving that body a veto power, although not the power to change anything that reaches it.

These are the basic principles. In a sense, it is too early to discuss them. You will hear a great deal of them as time passes along, but assuming that in some way or other we shall get the authority that we want to go ahead, then my plan would be first of all to turn our attention to the division of the executive departments. If, through the bringing together of various scattered groups, we might have nine or ten city departments, corresponding in number at least to those in Washington, it would be possible for the mayor to draw about his cabinet table a real government and keep in personal and close touch with what is going on. It is impossible to-day for the mayor to keep in anything like that relation with the twenty-seven or more departments that now exist. I would have those groups brought together in such fashion that the waste of energy and money that I have exemplified in the case of the building bureaus shall be avoided for all time. These building inspection departments might and should be under one head. The department of charities—a term which I trust will disappear in our new terminology, because it has no place in a description of what that department does for a part of the people of New York,—the department of hospitals, some of the functions of the department of health,—all these belong together. Some of the scattered functions of public works, like docks and bridges and ferries, may readily be brought together.

I would not, however, change in any material way the plan under which the boroughs are now governed. There are one or two smaller functions that might be taken away from them and others of larger importance given to them. It is absurd, for instance, that there should be one jurisdiction covering the building of the streets and the construction and care of the sewers and another to take care of the cleaning or lighting of the streets.

There is room for the bringing together of such functions. Possibly even the department of parks, treated as a part of the general physical lay-out of the town, might be added to that which controls the streets. That sort of thing I would keep on the borough basis, but otherwise I would have everything centralized in the city government and in a small number of departments.

Coming to the control of the action of these departments, I would make the mayor within his own field absolute. I would take away any power of intervention in the police department, for instance. That exists to-day in the right to remove the police commissioner vested in the governor of the state. It has always seemed to me a far stretch of imagination to hold that this particular municipal department, because it exercises the abstract police power of the state, should be subject to control of this sort.

The borough presidents I do not think should be the actual administrative heads of working departments as they are to-day. I would have them sit in the board of estimate as they do, but I would have them appoint borough heads of departments who shall have independent functions just as the mayor's commissioners have. That has been another difficulty in our actual experience, not a serious difficulty, but still it is not quite logical that those who spend the money directly for themselves should pass upon the resolutions that permit the spending of that money. It is rather interesting to note in passing, however, that although this objection to the presence of the borough presidents in the board of estimate is of long standing and was so strongly urged at the time of our Hughes commission that there was a movement to take them out, nevertheless, under the past administration, it was the borough presidents who cut down their accounts more than any other city officers. Instead of log-rolling within the board, they got together to set the example to the broader city departments, and there are two of the borough governments under the late administration that held respectively first and second place in the amount that they saved for the city through the economy of their administration and the reduction of their appropriations. So I do not urge that as a reason for any change, and indeed the

change would be in some degree technical and slight. Nevertheless, I think that the borough presidents should not be the heads of their own departments, and that they should not appoint all the rank and file of their subordinates, but should appoint the men who do these things, just as the mayor appoints his commissioners of departments.

Coming to the board of aldermen, I would give it at the outset a new code of ordinances, taking our present body of ordinances as the basis, a code that will take out of the present charter a great deal of the local matter. We tried that in the Hughes commission. We sent our charter to Albany in that form. The plan there was to have the legislature pass two instruments, one covering the general law of the state as applied to cities, our charter proper, the other covering these details in a code of ordinances, the administrative code, as we call it. However that may be adopted in the first instance, it should be given over to the new municipal assembly to work under after that, and there the people of the city of New York would find their opportunity to run their own affairs. Just as soon as you give to your municipal legislature the greater dignity that this would bring it, you will find that those good men who are there now would receive others who are good, that the tone of the board would constantly rise, and that you would have hearings at the city hall upon matters of legislation certainly as important, dignified and satisfactory as those that are now held at Albany.

These are rather general reflections upon this subject. What I appeal for is a considerable amount of public attention to it and of study of its various parts. The city must get behind the program of its charter commission if that program is to be approved. The voice of the city at Albany must be heard in strong and unmistakable terms. The city of New York can have the better and larger measure of self-government that it deserves, but it must ask for it, must demand it and must organize to get it. Therefore, right at the outset, let us agree that there shall be much intimate study of these things. The citizens have only to call on the charter commission to secure all the information they may wish. We certainly shall want aid.

The city is going to be infinitely greater in the near future.

It never stops growing. We find an almost unbroken rate of $3\frac{1}{2}\%$ per year in the increase of its population. You will see that each decade, in other words, it adds a third of new people, and, of course, constantly increasing wealth. We are entitled to the best form of government that can be devised. It is going to make not only for our future comfort and prosperity, our health and daily satisfaction with the way things go on here, but it is going to make for greater moral satisfaction, because we shall become more completely self-controlled, and I trust and believe that we shall use our power well. I want New York city to have, in short, just as large a measure of self-government as is consistent with its continuance as a part of the state. It is entitled to exactly that, and we shall, I am sure, work constantly together to bring that result about.

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